

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PAPER:

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

April 30, 2003

Commissioner of Patents and Trademarks
P.O.Box 1450 Alexandria, VA 22313-1450

NOTICE OF APPEAL

1. The Applicant hereby files a notice of appeal to the United States Patent Office Board of Appeals and Patent Interferences from the Examiner's final action: a Final Rejection of the above-entitled application, which was mailed on February 3, 2003 (Exhibit "A", copy is attached hereto).

2. In the above-entitled action, the Applicant has two Petitions to the Commissioner pending. Therefore, Applicant files this Notice but advises that action be held for two reasons in the light of said Petitions. The first reason is the importance of judicial economy, and the second is because 35 U.S.C. 134 states

"An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the administrative patent judge to the Board of Patent Appeals and Interferences ..."

In the above-entitled action, Applicant's timely submitted arguments, Declarations, Exhibits, etc. were substantively ignored. Therefore, the claims were once rejected. Furthermore, at the FINAL, the Examiner included his own new material and did not let the Applicant rebut it.

3. Given that the Applicant has asked the Commissioner to address this by Petition for judicial economy, and


given that this case was previously before the Board as Appeal No. 94-2920 [S.N. 07/760,970 of which this is a divisional, written without new material and accompanied by Declarations and Exhibits to comply with the Board], and

given that the Examiner still has not responded to the Declarations,

Applicant requests --if necessary in that it is not resolved by said Petition to the Commissioner -- revival of said case [Board as Appeal No. 94-2920] before the Board associated with '970 at the Board, so as to simplify the record, and thereafter simply direct the Examiner to comply with the Office's standards of review and the previous Decisions of the Board to respond to said Exhibits and said Declarations.

Check #152 is sent with the original copy of this.

Respectfully submitted,



Mitchell R. Swartz, ScD, MD, EE
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Wellesley Hills, Mass. 02481

Certificate Of Mailing
[pursuant MPEP Section 512 and 37 CFR 1.8(a)]

April 30, 2003

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to
"The Commissioner of Patents and Trademarks
P.O.Box 1450 Alexandria, VA 22313-1450" on the date below.

Thank you.

Sincerely,

April 30, 2003



M.R. Swartz

**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

Fax Transmission

From: Mitchell R. Swartz, MD, ScD
Questions? Call (781) 237-3625
or 239-1779 fax
(please call first)

To: **Patent Commissioner**
Dr. Nicholas P. Godici

Group Art Unit: 3641
Examiner Palabrica



NOTICE OF APPEAL

Address: BOX AF
The Commissioner of Patents and
Trademarks
Washington, D.C. 20231

FAX
703-305-8825
AFTER FINAL

Date: **RESPONSE UNDER 37 CFR 1.116**
EXPEDITED PROCEDURE
EXAMINING GROUP 3641

Time: **Pages: 4**

Re: Serial no. 09/ 748,691
Filed: 12/26/2000